BAIL SLIP

The Appellant in Crl.A.No.1146/2000 viz Annadurai @ Durai (Accused in S.C.No.440 of 1999) was directed to be released on bail as per Order of this Court dated 12/12/2000 and made in Crl.M.P.No.9160 of 2000.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2007

CORAM

THE HONOURABLE MR.JUSTICE R.REGUPATHI

Crl. Appeal No.1146 of 2000

Annadurai @ Durai .. Appellant/Accused

Versus

The State represented by its,
Inspector of Police,
G3, Kilpauk Police Station,
Chennai-10. .. Respondent/Complainant

For Appellant : Mr.R.C.Paul Kanakaraj

For Respondent : Mr.N.Kumanan
Government Advocate

PRAYER: Appeal against the judgment made in S.C.No.440 of 1999 dated 15.11.2000 passed by the learned V Additional Sessions Judge, Chennai.

J U D G M E N T

The appellant is the first accused in the case. The appellant was tried along with another accused for an offence punishable under Sections 341, 326 and 307 r/w 34IPC. On conclusion of the trial, the learned trial Judge convicted the appellant for an offence punishable under Sections 341 and 324 IPC and sentenced him to pay a fine of Rs.200/- in default to undergo simple imprisonment for one week in respect of the offence under Section 341 IPC and in so far as the offence under Section 324 IPC, sentenced him to undergo one month rigorous imprisonment and to a pay fine of Rs.200/-, in default to undergo one week simple imprisonment. In so far as the second accused is concerned, he was convicted similarly, but sentenced to undergo imprisonment for six months for the offence under Section 324 IPC. The second accused did not prefer any appeal and the first accused is the appellant before this Hon'ble court.

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2. On 23.10.1997 at about 9.30 p.m as per the evidence of P.W.1 an unidentifiable person, referring to A-2 demanded Rs.200/- and when it was refused, he caused an injury on the left shoulder and at that time another accused was present. P.W.2 is the another eye witness, but he did not support the case of the prosecution and therefore he has been treated hostile. P.W.3 has been cited as a mahazar witness for recovery of the clothings of P.W.1 under Ex.P-2, but he has been treated as hostile. P.W.4 is the another mahazar witness for Ex.P-3-Observation Mahazar. P.W.5 is the medical officer, who has admitted P.W.1 in the Hospital for treatment. P.W.1 alleged to have stated that he has sustained injury caused by an unknown person. P.W.5 noted down an injury at the left shoulder 15x15x3 cms alleged to have been caused on the same day at 11.30 p.m. P.W.1 alleged to have left the hospital without intimating the hospital authorities.

3. P.W.6 is the Sub Inspector of Police, who on receipt of the intimation from the Kilpauk Medical College Hospital, reached the Hospital on 23.10.1997 at about 10.00 p.m and received the complaint given by P.W.1. He reached the police station at 11.00 p.m and registered a case in Crime No.1351 of 1997 for an offence punishable under Sections 324 and 307 IPC. Thereafter he has visited the scene of occurrence at 11.30 p.m and examined the witnesses. The Rough sketch is Ex.P-9. He has also prepared the Observation Mahazar-Ex.P-10. He has also recovered the blood stained clothes from P.W.1 as M.O.1 and M.O.2 under a cover of mahazar Ex.P-2.

4. P.W.7 is the Inspector of Police, who on receipt of the FIR on 24.10.1997 took up the investigation and arrested the appellant and recorded the statement in the presence of the witnesses. The co-accused was arrested and was in custody for some other offence. On conclusion of the investigation, final report was filed on 09.06.1998 for an offence under Sections 324 and 307 IPC.

5. Learned counsel appearing for the appellant submits that on a perusal of the evidence of P.W.1 and Ex.P-1, the complaint given by P.W.1, the identity of the appellant is not given. The overt act has been attributed only to the second accused and though in the cross examination, he has admitted that the appellant is known to him, nothing has been stated against him. Apart from this evidence, no other materials are available to connect the appellant with the crime.

6. I have heard the learned Government Advocate and perused the materials available on record.

7. In Ex.P-1, though it has been stated that two persons alleged to have threatened P.W.1, nothing has been stated about the appellant. On a perusal of Ex.P-1 and the evidence of P.W.1, it appears that only the second accused was armed with the weapon and alleged to have caused injury on P.W.1.

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8. The evidence of P.W.5, the medical officer shows that a single person alleged to have caused injury on him. In Ex.P-4, P.W.1 informed the Doctor that he was alleged to have assaulted by one known person at 9.45 p.m. In such circumstances, I find that there is no material to connect the appellant with the crime. Therefore, the conviction and sentence imposed by the trial Court is set aside. The appellant is acquitted of the charges. The appeal is allowed. The bail bonds, if any, executed by the accused shall stand cancelled.

csh

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The V Additional Sessions Judge, Chennai.

2. -do- Thro' The Principal Judge, City Civil Court, Chennai.

3. The Inspector of Polic
   G3, Kilpauk Police Station, Chennai-10.

4. The Public Prosecutor, High Court, Madras.

5. The II Metropolitan Magistrate, Egmore, Madras-8.

6. -do- Thro' The Chief Metropolitan Magistrate,
   Egmore, Madras-8.

TEJ(CO)
dcp/13.2.07

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